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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,881

12/30/2004

Tetsuya Sakata

10921.0268USWO

7393

52835

7590

04/09/2009

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.

P.O. BOX 2902

MINNEAPOLIS, MN 55402-0902

EXAMINER

DOUGHERTY, SEAN PATRICK

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

04/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/519,881

Examiner

SEAN P. DOUGHERTY

Applicant(s)

SAKATA ET AL.

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 16 January 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Sean P. Dougherty/
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736

Continuation of 5 Other: Applicant has traversed the Requirement for Restriction/Election mailed 12/19/2008.

(a) The Notice of Non-Compliance is proper because Applicant elected in the Response to Election/Restriction Group II (claims 16-20). Examiner indicated in the Requirement for Restriction/Election that Group I (claims 15 and 21-26) had already been examined on the merits; therefore, Group II had been withdrawn from consideration as being directed to a non-elected invention. Applicant's election of the non-elected group is therefore considered improper.

(b) Furthermore, Applicant argues that the method claims of Group II have already been examined on the merits. The Examiner respectfully disagrees and contends that new method claims 16-20 contain method steps not recited in the previous (now canceled) method claims. The previous method claims did not require an analyzer/sensor in a second housing, where the attaching of the first and second housing is temporary, where the first housing is removed from the second housing, et al.

Accordingly, claims 16-20 REMAIN withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. .